

Update: Managing a Trial Under The Controlled Substances Act

CHAPTER 15

Sentencing

15.2 Sentencing for Major Controlled Substance Offenses

B. Major Controlled Substance Offenses Requiring Minimum Prison Terms That Permit Departure for “Substantial and Compelling Reasons”

Insert the following text after the April 2003 update to page 318:

Although the ameliorative changes made to the sentencing provisions in MCL 333.7401 do not apply retrospectively, a sentencing court should consider whether it is appropriate to tailor a defendant’s sentence to reflect the Legislature’s more lenient sentencing policy. *People v Michielutti*, ___ Mich App ___, ___ (2005). In addition to any other proper factors, “the new, ameliorative legislative policy qualifies as an objective and verifiable reason to deviate from the former mandatory sentence” and may contribute to the substantial and compelling reasons for a court’s departure from a previous mandatory sentence. *Id.* at ___.

CHAPTER 15

Sentencing

15.6 “Substantial and Compelling Reasons” to Depart from Minimum Prison Terms

B. Michigan Supreme Court’s Definition of “Substantial and Compelling”

1. Objective and Verifiable Test Is Upheld

Insert the following text on page 340, immediately before sub-subsection (2):

Note: Ameliorative changes made to the sentencing provisions in MCL 333.7401 do not apply retrospectively, but a sentencing court should consider whether it is appropriate to tailor a defendant’s sentence to reflect the Legislature’s more lenient sentencing policy. *People v Michielutti*, ___ Mich App ___, ___ (2005). In addition to any other proper factors, “the new, ameliorative legislative policy qualifies as an objective and verifiable reason to deviate from the former mandatory sentence” and may contribute to the substantial and compelling reasons for a court’s departure from a previous mandatory sentence. *Id.* at ___.